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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fifth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 6th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 25 April 2001, at 3 p.m.

Chairperson: Ms. BONOAN-DANDAN

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* No summary record was prepared for the first part (closed) of the meeting.

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Initial report of Honduras [(E/1990/5/Add.40); core document (HRI/CORE/1/Add.96); list of issues (E/C.12/Q/HON/1); country report (E/C.12/CA/HON/1); written replies to the list of issues prepared by the Government of Honduras (document without a reference number)]

1. At the invitation of the Chairperson, the members of the delegation of Honduras took places at the Committee table.

2. The CHAIRPERSON welcomed the delegation on behalf of the Committee and gave the floor to the Permanent Representative of Honduras.

3. Ms. RIVERA RAMIREZ (Honduras) said that in spite of the major task of reconstruction which her country had had to shoulder since Hurricane Mitch, the Government had made a special effort to put together a high-level delegation able to paint a reliable picture of the state of the country. She thanked the Committee for enabling her delegation to provide some useful clarifications on a number of issues concerning her country's economic, social and cultural development.

4. The CHAIRPERSON invited the head of the delegation to make his introductory statement. She apologized for the fact that the written replies to the list of issues were not available in the Committee's usual working languages, because they had been received too late by the Secretariat. She was concerned that might affect the quality of the dialogue with the delegation.

5. Mr. MEDINA (Honduras) said that, while he was sorry that the written replies by Honduras had not been translated, he was convinced that the live interplay of question and answer between the Committee and the delegation would make up for that shortcoming. He assured the Committee that his country was firmly committed to complying faithfully and strictly with the obligations assumed under United Nations international instruments. It was undeniable that the economic, social and cultural rights of the people were still being violated, but the Government was making enormous efforts to put an end to that situation. In any event, a number of reports by United Nations bodies showed that the number of cases of torture and forced disappearance was declining, that street children were receiving proper protection, that an Institute for Children and the Family (IHNFA) had been set up and that all children who had been deprived of their freedom and imprisoned along with adults had been compensated. Honduras was firmly resolved not to make such mistakes again.

6. He recalled that in 1998 his country had been hit by Hurricane Mitch, which had destroyed much of its economic and social infrastructure, including roads, schools and health centres. However, the Government of Honduras was aware that the disaster must not be taken as an excuse, and that it had a duty towards the people to secure respect for all human rights. In that light, steps had been taken in the fields of education, justice, culture and health in order to meet the challenges of the new millennium. The Covenant had been disseminated nationally, and those responsible for securing its application were to receive training. Legal instruments on non-discrimination had been promulgated, and Congress had recently adopted a law on equal opportunities for men and women.

7. The CHAIRPERSON invited the delegation to expand on the information supplied in the written replies to questions 1 to 9 of the list of issues (E/C.12/Q/HON/1).

8. Mr. AGUILAR ROBLES (Honduras), replying to question 1, on the place of international instruments in Honduran law, said his country recognized the supremacy of international over domestic law. The international instruments signed by Honduras were immediately published in the Official Journal, and once they had entered into force they were an integral part of domestic law. They could therefore be invoked by any natural or legal person before the courts of the Republic.

9. Ms. BÚ FIGUEROA (Honduras), replying to question 2, on the elaboration of an optional protocol to the Covenant, said her Government believed the recommendation by the World Conference on Human Rights was relevant. It was convinced that the adoption of such a protocol would facilitate the implementation of the Covenant's provisions. Turning to the modernization of public institutions, she said that a presidential commission had been appointed for that purpose, and was also responsible for identifying and mobilizing the necessary resources to modernize the entire State apparatus. A number of measures had already been taken for that purpose, including the adoption of a new tax law to help the worst-off sections of society. Similarly, four institutions deemed to be valueless had been scrapped, and a real process of decentralization had been started. In order to facilitate international trade, customs law and customs tariffs had been rationalized in line with the standards of the World Trade Organization (WTO). A free trade agreement had been signed with Guatemala and El Salvador, and negotiations were under way for a similar treaty with Chile and Colombia.

10. Mr. MEDINA (Honduras), replying to question 4 on the main obstacles encountered by his Government in its efforts to implement fully the rights recognized in the Covenant, explained that all of them related to the absence of measures to familiarize people with the Covenant, training programmes for law enforcement officials and the authorities in general, awareness-raising campaigns about the Covenant's provisions and a comprehensive plan on the subject.

11. Ms. BÚ FIGUEROA (Honduras), replying to question 5, on the destruction wrought by Hurricane Mitch, said it had had a devastating impact on most of the country's infrastructure. Following the disaster, a master plan for reconstruction had been devised, accompanied by measures to combat poverty. Increasing the budgets for education, health, nutrition, culture and

housing was the first of those measures. It was important to emphasize that the plan was administered by the Government's Modernization Office, which was directly answerable to the President of the Republic.

12. Mr. AGUILAR ROBLES (Honduras), replying to question 6, on the role of non-governmental organizations (NGOs) in the preparation of the initial report of Honduras, said the Government had in fact invited non-governmental human rights organizations to take part in compiling the report. For that purpose, the Government had set up an inter-agency committee comprising representatives of the State and certain NGOs. Mention must be made in that respect of the valuable contribution made by CIPRODEH (the Centre for Human Rights Research and Promotion), the "Consultorio Jurídico Popular" (a legal aid service for the poorest) and the NGO "Andar". It should be noted that NGOs had also been invited to take part in drafting the replies to the list of issues.

13. Mr. MEDINA (Honduras), replying to the question about the meaning and scope of the term "diputados propietarios" (question 7), said the term referred to full members of Congress, 128 in all, as opposed to their alternates. The figure might shortly rise, because the country's population was now close to 6 million. Improvements had been made in the method of electing representatives of the people. In future, members of Congress, the President of the Republic and local representatives would be elected separately, using separate ballot papers. Consideration was also being given to the possibility of holding constituency-based legislative elections, which would encourage local participation and enable voters to know their member of parliament better.

14. He added that the public prosecutor, through the services of special procurators (fiscalías especiales), had introduced mechanisms for disseminating information and publicity about the rights enshrined in the Covenant. However, it was necessary to organize more systematic awareness-raising among the public about the provisions of the Covenant.

15. The CHAIRPERSON invited members of the Committee to put their questions on section I of the list of issues (General information).

16. Mr. RIEDEL asked if the Honduran delegation could point to any specific instances in which individuals had invoked the Covenant before a court or other competent authority. Was there any case law on the question and were judges made familiar with it?

17. Mr. SADI observed that Honduras had ratified the International Covenant on Economic, Social and Cultural Rights well before the International Covenant on Civil and Political Rights. Did that mean that, according to Honduras, economic, social and cultural rights should be achieved ahead of civil and political rights? What role had the International Covenant on Economic, Social and Cultural Rights played in Honduras?

18. He was surprised that the Honduran authorities had not done more to familiarize the public with the Covenant, given that they had ratified it 20 years previously, and apparently

attached great importance to the international human rights instruments. As for Hurricane Mitch, he would like to know the delegation's opinion about the possible role of deforestation in Latin America generally in the occurrence of natural disasters of such magnitude.

19. Mr. MARCHAN ROMERO asked for details of the services of the special procurators mentioned in the written replies, especially those responsible for protecting the human rights of women, children and ethnic groups. Were there any others? Were those services independent, or part of the executive? How long had they been operating? What role had they played in the progressive achievement of economic, social and cultural rights?

20. Finally, in his opinion, Honduras was right to pursue its efforts to achieve the rights enshrined in the Covenant, in spite of the consequences of Hurricane Mitch. The determination of the authorities in that respect should be heightened by the threat posed to economic, social and cultural rights as a result of the disaster.

21. Mr. PILLAY observed that the Honduran Constitution guaranteed a large number of economic, social and cultural rights. However, according to some sources the judges did not ensure they were respected, as none of them were specialists in constitutional law. What was the actual situation? In order to apply the rights laid down in the Constitution and in the Covenant, judges must be both properly trained and independent. Were those sources correct in claiming that the courts were under political control?

22. Mr. TEXIER welcomed the interest shown by Honduras in implementing the Covenant, even if its interest seemed to be relatively recent, in view of the fact that its initial report should have been submitted in 1983. He would like further information about the office of the national human rights commissioner. Was that office equivalent to the people's advocate or procurator for human rights, as found in other Latin American countries, or was it more in the nature of a national commission on human rights?

23. Finally, concerning article 1 of the Covenant, he wondered what control was exercised by the State over the exploitation of the gold mines by foreign companies. The delegation should bear in mind that questions would be asked about the impact of the mining operations on the achievement of economic, social and cultural rights.

24. Mr. HUNT noted that the interim Poverty Reduction Strategy Paper prepared by Honduras in order to benefit from the Heavily Indebted Poor Countries initiative (HIPC) hardly mentioned economic, social and cultural rights. Why was that? Did the Covenant have any role to play in the preparation and implementation of poverty reduction strategies?

25. Mr. KOUZNETSOV found it surprising that Honduras had not ratified any of the ILO conventions on social protection, although it was a party to the Covenant, an important aspect of which was the protection of social rights. He recalled that in 1990 the Committee had adopted General Comment No. 3, pointing out that every State party to the Covenant had a fundamental minimum obligation at least to ensure that all the rights laid down in it were satisfied. He wondered whether one should conclude that Honduras did not intend to comply with its obligations in the area of social rights.

26. Mr. MALINVERNI asked the Honduran delegation to provide details of the actual impact of national jurisprudence on the enjoyment of economic and social rights, and specifically on the laws aimed at implementing the Covenant and those which had been revised or amended to bring their provisions into line with those of the Covenant. The delegation was saying that international law took priority over internal law, and that all citizens could complain to the courts of a violation of the Covenant provisions, and claim compensation. Had any of the poorest citizens actually gone to the courts for that purpose? What did justice cost in Honduras, in other words, what did the services of a lawyer cost and how did legal aid operate? Was there any institution such as a people's advocate to help the poorest people to assert their rights in court, and specifically the rights guaranteed by the Covenant?

27. Mr. GRISSA said he thought Honduras had already been experiencing problems, well before Hurricane Mitch, with regard to respect for economic, social and cultural rights, and the rights of minorities. It was therefore pointless to mention the disastrous economic consequences of the hurricane as an excuse for not applying the Covenant's provisions. It would, however, be desirable to have some details of the legal arrangements for applying its provisions.

28. Mr. AHMED said that what Hondurans wanted was a humane Government which attached importance to human rights and to the rights enshrined in the Covenant. What had been the use of the moral revolution launched by President Reina if the displacement of people working in the mines and their families had continued? Was the idea to open the way for foreign mining companies? There was still resistance among the indigenous peoples to allotting coastal areas on their territories to foreign investors, and the rights of women in the assembly plants (maquiladoras) were still being violated. What the Committee wanted in the case of Honduras was a genuine moral revolution extended to all, to ensure compliance with the commitments assumed by the country on signing the Covenant.

29. The CHAIRPERSON invited the delegation of Honduras to reply to questions 10 and 11 in the list of issues.

30. Mr. MEDINA (Honduras) replied that the Constitution of Honduras enshrined the principle of "equal pay for equal work" and that the policy of equal pay applied to the whole population, both urban and rural, in both the public and the private sectors. However, it was sometimes possible to evade the law, especially in rural areas where workers were uneducated and unaware of their employment rights, and hence more easily exploited and vulnerable.

31. Ms. PINEDA (Honduras) explained that the Honduran Family Code guaranteed equal rights for men and women. Honduran women had the right to leave their country, to purchase or sell property, to contract, to take out mortgages and to inherit. The State had been pursuing a policy of promoting equality between the sexes, and many laws had been adopted in favour of women, including those in the agricultural sector. A National Institute for Women and a Legislative Commission on Women had been set up. The office of the public prosecutor had a special unit for the defence of women's rights.

32. Mr. MALINVERNI said he would like some statistics on the number of indigenous people who were employed in public institutions, and those who were members of the Government or Parliament. According to some sources, in Honduras women's pay was less than half that of men, mainly because they were employed in menial jobs. Could the delegation comment on that?

33. Mr. PILLAY said that, according to a 1997 UNDP report, Honduran women earned half as much as men for the same work, in spite of the requirements of the Honduran Constitution. That was apparently due to women's ignorance of their rights. What steps was the Government taking to inform the public of their rights and thus to ensure respect for the law and for the Honduran Constitution? Were there any women's rights organizations?

34. Mr. TEXIER said he was puzzled by the contradictory information in the report on the question of equality between the sexes. Paragraph 31 of the report stated that the Constitution had established the principle of "equal pay for equal work", but according to paragraph 32, women employed in the assembly plants (maquiladoras) worked "long hours without due remuneration" and did "not enjoy the labour conditions required by law", the result being "over-exploitation of female labour". In that case, why was the Government encouraging such plants to operate, if it knew that the labour rights of women were being systematically violated? In Latin America and Central America, the very name of those plants stood for violations of trade union rights, inequality between women and men and non-compliance with social legislation. Surely the maquiladora employers should be required to respect social laws and trade union rights, and to pay women the wages due to them? He noted that the Honduran Government had taken steps to punish such actions, but it must go further. Apparently, a new draft labour code was under consideration. Had it yet been adopted, and in what sense did it represent progress?

35. Mr. THALAPIA pointed out that in the report, the State party admitted that the country had "three categories of discrimination: (1) laws which discriminate de facto; (2) discrimination in violation of the law; and (3) discrimination as a result of legal vacuums with regard to women" (para. 9). Apparently, the law was not enforced in Honduras, especially in the matter of employment rights. Although the report stated that the Government of Honduras was implementing a policy of supporting the maquiladoras "in order to alleviate poverty, create jobs and earn foreign exchange", it appeared that the rights of women were consistently flouted when they worked in such plants. He would welcome some statistics on the career paths of women in the maquiladoras, equal pay and violence, and would like to know what steps had been taken to eliminate discrimination against women, the disabled, indigenous people and refugees.

36. Ms. BARAHONA RIERA pointed out that Honduras was a party to the main international instruments for the prevention, punishment and elimination of violence against women, and in that light had undertaken to reform its institutions in order to protect the rights of that population group. She asked whether programmes had been put in place to raise popular awareness of those issues. Additionally, in view of the alarming figures for violence against children, were there any educational programmes designed for pupils in primary and secondary schools? If victims of family violence lodged official complaints, did they receive protection?

Fear of reprisals was often a factor in deterring them from complaining. With regard to equality between men and women, she would like to know if there were any sanctions against enterprises, especially assembly plants (maquiladoras) which failed to respect the principle of "equal pay for equal work". If not, did the new draft Labour Code provide for such sanctions?

37. Given that the 1991 Farming Sector Modernization Act placed men and women on an equal footing in terms of access to land and property, she would like to know if the signature of both partners was required when joint property from the marriage was sold, or if one signature only was enough.

38. Mr. CEAUSU pointed out that in Honduras, ethnic groups represented between 8 and 10 per cent of the total population, or around half a million people, living in very remote areas where access to social services was difficult. He asked the Honduran delegation to give specific examples of the Government's policy "to give priority to such groups in the context of community-oriented initiatives", mentioned in the core document (HRI/CORE/1/Add.96).

39. Finally, concerning the status of non-nationals, he asked whether aliens living in Honduras enjoyed economic, social and cultural rights, and whether there were any limits on the exercise of those rights.

40. Mr. MEDINA (Honduras) replied that the special procurators (fiscalías especiales) had been set up within the public prosecutor's office in December 1992, and had become operational in June 1993. Their responsibility was to ensure respect for human rights in general, and especially for economic, social and cultural rights, and the rights of minorities, women, children, and elderly and disabled persons, among others. In spite of the efforts of the Government of Honduras, he had to admit that the Covenant had never been invoked by individuals in domestic courts. The Government had also set up a special procurator's office for the purpose of monitoring compliance with the Constitution. With the establishment of such services within the office of the public prosecutor, the Government believed it had equipped the country with a system capable of ensuring that the law would be applied. The judicial system was strengthened by it. In fact the prosecutor's office, as part of the struggle against the culture of impunity in Honduras, had for the first time in the country's history instituted proceedings against former politicians, members of the Government party and of the military, and business leaders for alleged violations of human rights.

41. He also explained that Honduras had ratified the International Covenant on Economic, Social and Cultural Rights before the International Covenant on Civil and Political Rights, but that the Government genuinely intended to attribute the same importance to both instruments with regard to the universality, indivisibility and interdependence of all the rights enshrined in them.

42. He disputed the allegation that judges did not ensure respect for economic, social and cultural rights because they were not specialists in constitutional law. When a judge took the oath of office, he or she undertook to secure respect for the Constitution and laws of Honduras,

and no breach of that obligation could be justified by ignorance of a particular branch of the law. The judiciary was not subject to any political influence, and neither was the National Human Rights Commission, which acted altogether independently. The Commissioner could in fact be seen as the equivalent of a people's advocate.

43. Finally, concerning the consequences of mining for the achievement of economic, social and cultural rights, it should be pointed out that a unit of the special procurator's office with responsibility for the environment had ordered criminal penalties against mining enterprises whose activities had deleterious effects on the environment, and also against officials who had issued mining permits without calling for an environmental impact study beforehand.

The meeting rose at 6 p.m.